

statute in, or exercised by, the Commissioner of Immigration and Naturalization (or any officer, employee, or component thereof), immediately prior to the effective date of this subtitle, are transferred to the Office.

(b) **TRANSFER AND ALLOCATIONS OF APPROPRIATIONS.**—The liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Office. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

(c) **LEGAL DOCUMENTS.**—All orders, determinations, rules, regulations, permits, grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Attorney General, the Commissioner of the Immigration and Naturalization Service, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred pursuant to this section; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(d) **PROCEEDINGS.**—

(1) **PENDING.**—The transfer of functions under subsection (a) shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this subtitle before an office whose functions are transferred pursuant to this section, but such proceedings and applications shall be continued.

(2) **ORDERS.**—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) **DISCONTINUANCE OR MODIFICATION.**—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(e) **SUITS.**—This section shall not affect suits commenced before the effective date of this subtitle, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(f) **NONABATEMENT OF ACTIONS.**—No suit, action, or other proceeding commenced by or against the Department of Justice or the Immigration and Naturalization Service, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function trans-

ferred under this section, shall abate by reason of the enactment of this Act.

(g) **CONTINUANCE OF SUIT WITH SUBSTITUTION OF PARTIES.**—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and pursuant to this section such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(h) **ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.**—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred pursuant to any provision of this section shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred pursuant to such provision.

SEC. 1214. EFFECTIVE DATE.

This subtitle shall take effect on the effective date of division A of this Act.

Subtitle B—Custody, Release, Family Reunification, and Detention

SEC. 1221. PROCEDURES WHEN ENCOUNTERING UNACCOMPANIED ALIEN CHILDREN.

(a) **UNACCOMPANIED CHILDREN FOUND ALONG THE UNITED STATES BORDER OR AT UNITED STATES PORTS OF ENTRY.**—

(1) **IN GENERAL.**—Subject to paragraph (2), if an immigration officer finds an unaccompanied alien child who is described in paragraph (2) at a land border or port of entry of the United States and determines that such child is inadmissible under the Immigration and Nationality Act, the officer shall—

(A) permit such child to withdraw the child's application for admission pursuant to section 235(a)(4) of the Immigration and Nationality Act; and

(B) return such child to the child's country of nationality or country of last habitual residence.

(2) **SPECIAL RULE FOR CONTIGUOUS COUNTRIES.**—

(A) **IN GENERAL.**—Any child who is a national or habitual resident of a country that is contiguous with the United States and that has an agreement in writing with the United States providing for the safe return and orderly repatriation of unaccompanied alien children who are nationals or habitual residents of such country shall be treated in accordance with paragraph (1), unless a determination is made on a case-by-case basis that—

(i) such child has a fear of returning to the child's country of nationality or country of last habitual residence owing to a fear of persecution;

(ii) the return of such child to the child's country of nationality or country of last habitual residence would endanger the life or safety of such child; or

(iii) the child cannot make an independent decision to withdraw the child's application for admission due to age or other lack of capacity.

(B) **RIGHT OF CONSULTATION.**—Any child described in subparagraph (A) shall have the right to consult with a consular officer from the child's country of nationality or country of last habitual residence prior to repatriation, as well as consult with the Office, telephonically, and such child shall be informed of that right.

(3) **RULE FOR APPREHENSIONS AT THE BORDER.**—The custody of unaccompanied alien children not described in paragraph (2) who are apprehended at the border of the United States or at a United States port of entry shall be treated in accordance with the provisions of subsection (b).

(b) **CUSTODY OF UNACCOMPANIED ALIEN CHILDREN FOUND IN THE INTERIOR OF THE UNITED STATES.**—

(1) **ESTABLISHMENT OF JURISDICTION.**—

(A) **IN GENERAL.**—Except as otherwise provided under subsection (a) and subparagraphs (B) and (C), the custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be under the jurisdiction of the Office.

(B) **EXCEPTION FOR CHILDREN WHO HAVE COMMITTED CRIMES.**—Notwithstanding subparagraph (A), the Service shall retain or assume the custody and care of any unaccompanied alien child who—

(i) has been charged with any felony, excluding offenses proscribed by the Immigration and Nationality Act, while such charges are pending; or

(ii) has been convicted of any such felony.

(C) **EXCEPTION FOR CHILDREN WHO THREATEN NATIONAL SECURITY.**—Notwithstanding subparagraph (A), the Service shall retain or assume the custody and care of an unaccompanied alien child if the Secretary has substantial evidence that such child endangers the national security of the United States.

(D) **TRAFFICKING VICTIMS.**—For the purposes of this Act, an unaccompanied alien child who is receiving services authorized under the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106-386), shall be considered to be in the custody of the Office.

(2) **NOTIFICATION.**—Upon apprehension of an unaccompanied alien child, the Secretary shall promptly notify the Office.

(3) **TRANSFER OF UNACCOMPANIED ALIEN CHILDREN.**—

(A) **TRANSFER TO THE OFFICE.**—The care and custody of an unaccompanied alien child shall be transferred to the Office—

(i) in the case of a child not described in paragraph (1) (B) or (C), not later than 72 hours after the apprehension of such child; or

(ii) in the case of a child whose custody has been retained or assumed by the Service pursuant to paragraph (1) (B) or (C), immediately following a determination that the child no longer meets the description set forth in such paragraph.

(B) **TRANSFER TO THE SERVICE.**—Upon determining that a child in the custody of the Office is described in paragraph (1) (B) or (C), the Director shall promptly make arrangements to transfer the care and custody of such child to the Service.

(c) **AGE DETERMINATIONS.**—In any case in which the age of an alien is in question and the resolution of questions about such alien's age would affect the alien's eligibility for treatment under the provisions of this title, a determination of whether such alien meets the age requirements of this title shall be made in accordance with the provisions of section 1225.

SEC. 1222. FAMILY REUNIFICATION FOR UNACCOMPANIED ALIEN CHILDREN WITH RELATIVES IN THE UNITED STATES.

(a) **PLACEMENT AUTHORITY.**—

(1) **ORDER OF PREFERENCE.**—Subject to the Director's discretion under paragraph (4) and section 1223(a)(2), an unaccompanied alien child in the custody of the Office shall be promptly placed with one of the following individuals in the following order of preference:

(A) A parent who seeks to establish custody, as described in paragraph (3)(A).

(B) A legal guardian who seeks to establish custody, as described in paragraph (3)(A).

(C) An adult relative.

(D) An entity designated by the parent or legal guardian that is capable and willing to care for the child's well-being.

(E) A State-licensed juvenile shelter, group home, or foster home willing to accept legal custody of the child.

(F) A qualified adult or entity seeking custody of the child when it appears that there is no other likely alternative to long-term detention and family reunification does not appear to be a reasonable alternative. For purposes of this subparagraph, the qualification of the adult or entity shall be decided by the Office.

(2) HOME STUDY.—Notwithstanding the provisions of paragraph (1), no unaccompanied alien child shall be placed with a person or entity unless a valid home-study conducted by an agency of the State of the child's proposed residence, by an agency authorized by that State to conduct such a study, or by an appropriate voluntary agency contracted with the Office to conduct such studies has found that the person or entity is capable of providing for the child's physical and mental well-being.

(3) RIGHT OF PARENT OR LEGAL GUARDIAN TO CUSTODY OF UNACCOMPANIED ALIEN CHILD.—

(A) PLACEMENT WITH PARENT OR LEGAL GUARDIAN.—If an unaccompanied alien child is placed with any person or entity other than a parent or legal guardian, but subsequent to that placement a parent or legal guardian seeks to establish custody, the Director shall assess the suitability of placing the child with the parent or legal guardian and shall make a written determination on the child's placement within 30 days.

(B) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to—

(i) supersede obligations under any treaty or other international agreement to which the United States is a party, including The Hague Convention on the Civil Aspects of International Child Abduction, the Vienna Declaration and Programme of Action, and the Declaration of the Rights of the Child; or

(ii) limit any right or remedy under such international agreement.

(4) PROTECTION FROM SMUGGLERS AND TRAFFICKERS.—

(A) POLICIES.—The Director shall establish policies to ensure that unaccompanied alien children are protected from smugglers, traffickers, or other persons seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity.

(B) CRIMINAL INVESTIGATIONS AND PROSECUTIONS.—Any officer or employee of the Office or the Department of Homeland Security, and any grantee or contractor of the Office, who suspects any individual of being involved in any activity described in subparagraph (A) shall report such individual to Federal or State prosecutors for criminal investigation and prosecution.

(C) DISCIPLINARY ACTION.—Any officer or employee of the Office or the Department of Homeland Security, and any grantee or contractor of the Office, who suspects an attorney of being involved in any activity described in subparagraph (A) shall report the individual to the State bar association of which the attorney is a member or other appropriate disciplinary authorities for appropriate disciplinary action that may include private or public admonition or censure, suspension, or disbarment of the attorney from the practice of law.

(5) GRANTS AND CONTRACTS.—Subject to the availability of appropriations, the Director is authorized to make grants to, and enter into contracts with, voluntary agencies to carry out the provisions of this section.

(6) REIMBURSEMENT OF STATE EXPENSES.—Subject to the availability of appropriations, the Director is authorized to reimburse States for any expenses they incur in providing assistance to unaccompanied alien children who are served pursuant to this title.

(b) CONFIDENTIALITY.—All information obtained by the Office relating to the immigration status of a person listed in subsection (a) shall remain confidential and may be used only for the purposes of determining such person's qualifications under subsection (a)(1).

SEC. 1223. APPROPRIATE CONDITIONS FOR DETENTION OF UNACCOMPANIED ALIEN CHILDREN.

(a) STANDARDS FOR PLACEMENT.—

(1) PROHIBITION OF DETENTION IN CERTAIN FACILITIES.—Except as provided in paragraph (2), an unaccompanied alien child shall not be placed in an adult detention facility or a facility housing delinquent children.

(2) DETENTION IN APPROPRIATE FACILITIES.—An unaccompanied alien child who has exhibited a violent or criminal behavior that endangers others may be detained in conditions appropriate to the behavior in a facility appropriate for delinquent children.

(3) STATE LICENSURE.—In the case of a placement of a child with an entity described in section 1222(a)(1)(E), the entity must be licensed by an appropriate State agency to provide residential, group, child welfare, or foster care services for dependent children.

(4) CONDITIONS OF DETENTION.—

(A) IN GENERAL.—The Director shall promulgate regulations incorporating standards for conditions of detention in such placements that provide for—

(i) educational services appropriate to the child;

(ii) medical care;

(iii) mental health care, including treatment of trauma;

(iv) access to telephones;

(v) access to legal services;

(vi) access to interpreters;

(vii) supervision by professionals trained in the care of children, taking into account the special cultural, linguistic, and experiential needs of children in immigration proceedings;

(viii) recreational programs and activities;

(ix) spiritual and religious needs; and

(x) dietary needs.

(B) NOTIFICATION OF CHILDREN.—Such regulations shall provide that all children are notified orally and in writing of such standards.

(b) PROHIBITION OF CERTAIN PRACTICES.—The Director and the Secretary shall develop procedures prohibiting the unreasonable use of—

(1) shackling, handcuffing, or other restraints on children;

(2) solitary confinement; or

(3) pat or strip searches.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to supersede procedures favoring release of children to appropriate adults or entities or placement in the least secure setting possible, as defined in the Stipulated Settlement Agreement under *Flores v. Reno*.

SEC. 1224. REPATRIATED UNACCOMPANIED ALIEN CHILDREN.

(a) COUNTRY CONDITIONS.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that, to the extent consistent with the treaties and other international agreements to which the United States is a party and to the extent practicable, the United States Government should undertake efforts to ensure that it does not repatriate children in its custody into settings that would threaten the life and safety of such children.

(2) ASSESSMENT OF CONDITIONS.—

(A) IN GENERAL.—The Secretary of State shall include each year in the State Department Country Report on Human Rights an assessment of the degree to which each country protects children from smugglers and traffickers.

(B) FACTORS FOR ASSESSMENT.—The Office shall consult the State Department Country Report on Human Rights as one of the factors in assessing whether to repatriate an unaccompanied alien child to a particular country.

(b) REPORT ON REPATRIATION OF UNACCOMPANIED ALIEN CHILDREN.—Beginning not later than 18 months after the date of enactment of this Act, and annually thereafter, the Director shall submit a report to the Judiciary Committees of the House of Representatives and Senate on the Director's efforts to repatriate unaccompanied alien children. Such report shall include at a minimum the following information:

(1) The number of unaccompanied alien children ordered removed and the number of such children actually removed from the United States.

(2) A description of the type of immigration relief sought and denied to such children.

(3) A statement of the nationalities, ages, and gender of such children.

(4) A description of the procedures used to effect the removal of such children from the United States.

(5) A description of steps taken to ensure that such children were safely and humanely repatriated to their country of origin.

(6) Any information gathered in assessments of country and local conditions pursuant to subsection (a)(2).

SEC. 1225. ESTABLISHING THE AGE OF AN UNACCOMPANIED ALIEN CHILD.

(a) IN GENERAL.—When the age of the alien is at issue, the Director shall develop procedures to determine the age of an alien who attests that he or she is under the age of 18. Such procedures shall permit the presentation of multiple forms of evidence, including testimony of the child, to determine the age of the unaccompanied alien for purposes of placement, custody, parole, and detention. Such procedures shall allow the appeal of a determination to an immigration judge.

(b) PROHIBITION ON SOLE MEANS OF DETERMINING AGE.—Neither radiographs nor a child's attestation shall be used as the sole means of determining age for the purposes of determining a child's eligibility for treatment under this title.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to place the burden of proof in determining the age of an alien on the government.

SEC. 1226. EFFECTIVE DATE.

This subtitle shall take effect 90 days after the effective date of division A of this Act.

Subtitle C—Access by Unaccompanied Alien Children to Guardians Ad Litem and Counsel

SEC. 1231. RIGHT OF UNACCOMPANIED ALIEN CHILDREN TO GUARDIANS AD LITEM.

(a) GUARDIAN AD LITEM.—

(1) APPOINTMENT.—The Director may, in the Director's discretion, appoint a guardian ad litem who meets the qualifications described in paragraph (2) for an unaccompanied alien child in the custody of the Office not later than 72 hours after the Office assumes physical or constructive custody of such child. The Director is encouraged, wherever practicable, to contract with a voluntary agency for the selection of an individual to be appointed as a guardian ad litem under this paragraph.

(2) QUALIFICATIONS OF GUARDIAN AD LITEM.—

(A) IN GENERAL.—No person shall serve as a guardian ad litem unless such person—

(i) is a child welfare professional or other individual who has received training in child welfare matters; and

(ii) possesses special training on the nature of problems encountered by unaccompanied alien children.

(B) PROHIBITION.—A guardian ad litem shall not be an employee of the Service.

(3) DUTIES.—The guardian ad litem shall—
(A) conduct interviews with the child in a manner that is appropriate, taking into account the child's age;

(B) investigate the facts and circumstances relevant to such child's presence in the United States, including facts and circumstances arising in the country of the child's nationality or last habitual residence and facts and circumstances arising subsequent to the child's departure from such country;

(C) work with counsel to identify the child's eligibility for relief from removal or voluntary departure by sharing with counsel information collected under subparagraph (B);

(D) develop recommendations on issues relative to the child's custody, detention, release, and repatriation;

(E) ensure that the child's best interests are promoted while the child participates in, or is subject to, proceedings or actions under the Immigration and Nationality Act;

(F) ensure that the child understands such determinations and proceedings; and

(G) report findings and recommendations to the Director and to the Executive Office of Immigration Review (or successor entity).

(4) TERMINATION OF APPOINTMENT.—The guardian ad litem shall carry out the duties described in paragraph (3) until—

(A) those duties are completed,
(B) the child departs the United States,
(C) the child is granted permanent resident status in the United States,

(D) the child attains the age of 18, or
(E) the child is placed in the custody of a parent or legal guardian, whichever occurs first.

(5) POWERS.—The guardian ad litem—
(A) shall have reasonable access to the child, including access while such child is being held in detention or in the care of a foster family;

(B) shall be permitted to review all records and information relating to such proceedings that are not deemed privileged or classified;
(C) may seek independent evaluations of the child;

(D) shall be notified in advance of all hearings involving the child that are held in connection with proceedings under the Immigration and Nationality Act, and shall be given a reasonable opportunity to be present at such hearings; and

(E) shall be permitted to consult with the child during any hearing or interview involving such child.

(b) TRAINING.—The Director shall provide professional training for all persons serving as guardians ad litem under this section in the circumstances and conditions that unaccompanied alien children face as well as in the various immigration benefits for which such a child might be eligible.

(c) PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director shall establish and begin to carry out a pilot program to test the implementation of the guardian ad litem provisions in this section.

(2) PURPOSE.—The purpose of the pilot program is to—

(A) study and assess the benefits of providing guardians ad litem to assist unaccompanied alien children involved in immigration proceedings;

(B) assess the most efficient and cost-effective means of implementing the guardian ad litem provisions in this section; and

(C) assess the feasibility of implementing such provisions on a nationwide basis for all unaccompanied alien children in the care of the Office.

(3) SCOPE OF PROGRAM.—

(A) The Director shall select three sites in which to operate the pilot program established by paragraph (1).

(B) To the greatest extent possible, each such site should have at least 25 children held in immigration custody at any given time.

(4) REPORT TO CONGRESS.—Not later than one year after the date on which the first pilot program established pursuant to paragraph (1) is established, the Director shall report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on subparagraphs (A) through (C) of paragraph (2).

SEC. 1232. RIGHT OF UNACCOMPANIED ALIEN CHILDREN TO COUNSEL.

(a) ACCESS TO COUNSEL.—

(1) IN GENERAL.—The Director shall ensure that all unaccompanied alien children in the custody of the Office or in the custody of the Service who are not described in section 1221(a)(2) shall have competent counsel to represent them in immigration proceedings or matters.

(2) PRO BONO REPRESENTATION.—To the maximum extent practicable, the Director shall utilize the services of pro bono attorneys who agree to provide representation to such children without charge.

(3) DEVELOPMENT OF NECESSARY INFRASTRUCTURES AND SYSTEMS.—In ensuring that legal representation is provided to such children, the Director shall develop the necessary mechanisms to identify entities available to provide such legal assistance and representation and to recruit such entities.

(4) CONTRACTING AND GRANTMAKING AUTHORITY.—

(A) IN GENERAL.—Subject to the availability of appropriations, the Director shall enter into contracts with or make grants to national nonprofit agencies with relevant expertise in the delivery of immigration-related legal services to children in order to carry out this subsection.

(B) INELIGIBILITY FOR GRANTS AND CONTRACTS.—In making grants and entering into contracts with such agencies, the Director shall ensure that no such agency receiving funds under this subsection is a grantee or contractee for more than one of the following services:

- (i) Services provided under section 1222.
- (ii) Services provided under section 1231.
- (iii) Services provided under paragraph (2).
- (iv) Services provided under paragraph (3).

(b) REQUIREMENT OF LEGAL REPRESENTATION.—The Director shall ensure that all unaccompanied alien children have legal representation within 7 days of the child coming into Federal custody.

(c) DUTIES.—Counsel shall represent the unaccompanied alien child all proceedings and actions relating to the child's immigration status or other actions involving the Service and appear in person for all individual merits hearings before the Executive Office for Immigration Review (or its successor entity) and interviews involving the Service.

(d) ACCESS TO CHILD.—

(1) IN GENERAL.—Counsel shall have reasonable access to the unaccompanied alien child, including access while the child is being held in detention, in the care of a foster family, or in any other setting that has been determined by the Office.

(2) RESTRICTION ON TRANSFERS.—Absent compelling and unusual circumstances, no child who is represented by counsel shall be transferred from the child's placement to another placement unless advance notice of at least 24 hours is made to counsel of such transfer.

(e) TERMINATION OF APPOINTMENT.—Counsel shall carry out the duties described in subsection (c) until—

(1) those duties are completed,
(2) the child departs the United States,
(3) the child is granted withholding of removal under section 241(b)(3) of the Immigration and Nationality Act,

(4) the child is granted protection under the Convention Against Torture,

(5) the child is granted asylum in the United States under section 208 of the Immigration and Nationality Act,

(6) the child is granted permanent resident status in the United States, or

(7) the child attains 18 years of age, whichever occurs first.

(f) NOTICE TO COUNSEL DURING IMMIGRATION PROCEEDINGS.—

(1) IN GENERAL.—Except when otherwise required in an emergency situation involving the physical safety of the child, counsel shall be given prompt and adequate notice of all immigration matters affecting or involving an unaccompanied alien child, including adjudications, proceedings, and processing, before such actions are taken.

(2) OPPORTUNITY TO CONSULT WITH COUNSEL.—An unaccompanied alien child in the custody of the Office may not give consent to any immigration action, including consenting to voluntary departure, unless first afforded an opportunity to consult with counsel.

(g) ACCESS TO RECOMMENDATIONS OF GUARDIAN AD LITEM.—Counsel shall be afforded an opportunity to review the recommendation by the guardian ad litem affecting or involving a client who is an unaccompanied alien child.

SEC. 1233. EFFECTIVE DATE; APPLICABILITY.

(a) EFFECTIVE DATE.—This subtitle shall take effect 180 days after the effective date of division A of this Act.

(b) APPLICABILITY.—The provisions of this subtitle shall apply to all unaccompanied alien children in Federal custody on, before, or after the effective date of this subtitle.

Subtitle D—Strengthening Policies for Permanent Protection of Alien Children

SEC. 1241. SPECIAL IMMIGRANT JUVENILE VISA.

(a) J VISA.—Section 101(a)(27)(J) (8 U.S.C. 1101(a)(27)(J)) is amended to read as follows:

“(J) an immigrant under the age of 18 on the date of application who is present in the United States—

“(i) who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, a department or agency of a State, or an individual or entity appointed by a State, and who has been deemed eligible by that court for long-term foster care due to abuse, neglect, or abandonment, or a similar basis found under State law;

“(ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and

“(iii) for whom the Office of Refugee Resettlement of the Department of Health and Human Services has certified to the Under Secretary of Homeland Security for Immigration Affairs (or, prior to the effective date of title XI of the National Homeland Security and Combatting Terrorism Act of 2002, the Attorney General) that the classification of an alien as a special immigrant under this subparagraph has not been made solely to provide an immigration benefit to that alien; except that no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage,

be accorded any right, privilege, or status under this Act.”

(b) **ADJUSTMENT OF STATUS.**—Section 245(h)(2) (8 U.S.C. 1255(h)(2)) is amended—

(1) by amending subparagraph (A) to read as follows:

“(A) paragraphs (1), (4), (5), (6), and (7)(A) of section 212(a) shall not apply.”;

(2) in subparagraph (B), by striking the period and inserting “, and”; and

(3) by adding at the end the following new subparagraph:

“(C) the Secretary of Homeland Security (or, prior to the effective date of title XI of the National Homeland Security and Combatting Terrorism Act of 2002, the Attorney General) may waive paragraph (2) (A) and (B) in the case of an offense which arose as a consequence of the child being unaccompanied.”.

(c) **ELIGIBILITY FOR ASSISTANCE.**—A child who has been granted relief under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)), as amended by subsection (a), shall be eligible for all funds made available under section 412(d) of such Act until such time as the child attains the age designated in section 412(d)(2)(B) of such Act (8 U.S.C. 1522(d)(2)(B)), or until the child is placed in a permanent adoptive home, whichever occurs first.

SEC. 1242. TRAINING FOR OFFICIALS AND CERTAIN PRIVATE PARTIES WHO COME INTO CONTACT WITH UNACCOMPANIED ALIEN CHILDREN.

(a) **TRAINING OF STATE AND LOCAL OFFICIALS AND CERTAIN PRIVATE PARTIES.**—The Secretary of Health and Human Services, acting jointly with the Secretary, shall provide appropriate training to be available to State and county officials, child welfare specialists, teachers, public counsel, and juvenile judges who come into contact with unaccompanied alien children. The training shall provide education on the processes pertaining to unaccompanied alien children with pending immigration status and on the forms of relief potentially available. The Director shall be responsible for establishing a core curriculum that can be incorporated into currently existing education, training, or orientation modules or formats that are currently used by these professionals.

(b) **TRAINING OF SERVICE PERSONNEL.**—The Secretary, acting jointly with the Secretary of Health and Human Services, shall provide specialized training to all personnel of the Service who come into contact with unaccompanied alien children. In the case of Border Patrol agents and immigration inspectors, such training shall include specific training on identifying children at the United States border or at United States ports of entry who have been victimized by smugglers or traffickers, and children for whom asylum or special immigrant relief may be appropriate, including children described in section 1221(a)(2).

SEC. 1243. EFFECTIVE DATE.

The amendment made by section 1241 shall apply to all eligible children who were in the United States before, on, or after the date of enactment of this Act.

Subtitle E—Children Refugee and Asylum Seekers

SEC. 1251. GUIDELINES FOR CHILDREN'S ASYLUM CLAIMS.

(a) **SENSE OF CONGRESS.**—Congress commends the Service for its issuance of its “Guidelines for Children's Asylum Claims”, dated December 1998, and encourages and supports the Service's implementation of such guidelines in an effort to facilitate the handling of children's asylum claims. Congress calls upon the Executive Office for Immigration Review of the Department of Justice (or successor entity) to adopt the

“Guidelines for Children's Asylum Claims” in its handling of children's asylum claims before immigration judges and the Board of Immigration Appeals.

(b) **TRAINING.**—The Secretary shall provide periodic comprehensive training under the “Guidelines for Children's Asylum Claims” to asylum officers, immigration judges, members of the Board of Immigration Appeals, and immigration officers who have contact with children in order to familiarize and sensitize such officers to the needs of children asylum seekers. Voluntary agencies shall be allowed to assist in such training.

SEC. 1252. UNACCOMPANIED REFUGEE CHILDREN.

(a) **IDENTIFYING UNACCOMPANIED REFUGEE CHILDREN.**—Section 207(e) (8 U.S.C. 1157(e)) is amended—

(1) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), and (8), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

“(3) An analysis of the worldwide situation faced by unaccompanied refugee children, by region. Such analysis shall include an assessment of—

“(A) the number of unaccompanied refugee children, by region;

“(B) the capacity of the Department of State to identify such refugees;

“(C) the capacity of the international community to care for and protect such refugees;

“(D) the capacity of the voluntary agency community to resettle such refugees in the United States;

“(E) the degree to which the United States plans to resettle such refugees in the United States in the coming fiscal year; and

“(F) the fate that will befall such unaccompanied refugee children for whom resettlement in the United States is not possible.”.

(b) **TRAINING ON THE NEEDS OF UNACCOMPANIED REFUGEE CHILDREN.**—Section 207(f)(2) (8 U.S.C. 1157(f)(2)) is amended by—

(1) striking “and” after “countries.”; and

(2) inserting before the period at the end the following: “, and instruction on the needs of unaccompanied refugee children”.

(c) **MODEL GUIDELINES ON LEGAL REPRESENTATION OF CHILDREN.**—

(1) **DEVELOPMENT OF GUIDELINES.**—The Executive Office for Immigration Review (or its successor entity), in consultation with voluntary agencies and national experts, shall develop model guidelines for the legal representation of alien children in immigration proceedings based on the children's asylum guidelines, the American Bar Association Model Rules of Professional Conduct, and other relevant domestic or international sources.

(2) **PURPOSE OF GUIDELINES.**—Such guidelines shall be designed to help protect a child from any individual suspected of involvement in any criminal, harmful, or exploitative activity associated with the smuggling or trafficking of children, while ensuring the fairness of the removal proceeding in which the child is involved.

(3) **IMPLEMENTATION.**—The Executive Office for Immigration Review (or its successor entity) shall adopt such guidelines and submit them for adoption by national, State, and local bar associations.

Subtitle F—Authorization of Appropriations

SEC. 1261. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

(b) **AVAILABILITY OF FUNDS.**—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

SA 4832. Mr. JEFFORDS (for himself, Mr. SMITH of New Hampshire, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to be lie on the table; as follows:

At the end of title I, add the following:

Subtitle G—First Responder Terrorism Preparedness

SEC. 199A. SHORT TITLE.

This subtitle may be cited as the “First Responder Terrorism Preparedness Act of 2002”.

SEC. 199B. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—Congress finds that—

(1) the Federal Government must enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

(2) as a result of the events of September 11, 2001, it is necessary to clarify and consolidate the authority of the Federal Emergency Management Agency to support first responders.

(b) **PURPOSES.**—The purposes of this subtitle are—

(1) to establish within the Federal Emergency Management Agency the Office of National Preparedness;

(2) to establish a program to provide assistance to enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

(3) to address issues relating to urban search and rescue task forces.

SEC. 199C. DEFINITIONS.

(a) **MAJOR DISASTER.**—Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is amended by inserting “incident of terrorism,” after “drought.”.

(b) **WEAPON OF MASS DESTRUCTION.**—Section 602(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(a)) is amended by adding at the end the following:

“(11) **WEAPON OF MASS DESTRUCTION.**—The term ‘weapon of mass destruction’ has the meaning given the term in section 2302 of title 50, United States Code.”.

SEC. 199D. ESTABLISHMENT OF OFFICE OF NATIONAL PREPAREDNESS.

Subtitle A of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196 et seq.) is amended by adding at the end the following:

“SEC. 616. OFFICE OF NATIONAL PREPAREDNESS.

“(a) **IN GENERAL.**—There is established in the Federal Emergency Management Agency an office to be known as the ‘Office of National Preparedness’ (referred to in this section as the ‘Office’).

“(b) **APPOINTMENT OF ASSOCIATE DIRECTOR.**—

“(1) **IN GENERAL.**—The Office shall be headed by an Associate Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

“(2) **COMPENSATION.**—The Associate Director shall be compensated at the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

“(c) **DUTIES.**—The Office shall—

“(1) lead a coordinated and integrated overall effort to build, exercise, and ensure viable terrorism preparedness and response capability at all levels of government; and

“(2) establish clearly defined standards and guidelines for Federal, State, tribal, and local government terrorism preparedness and response;

“(3) establish and coordinate an integrated capability for Federal, State, tribal, and local governments and emergency responders to plan for and address potential consequences of terrorism;

“(4) coordinate provision of Federal terrorism preparedness assistance to State, tribal, and local governments;

“(5) establish standards for a national, interoperable emergency communications and warning system;

“(6) establish standards for training of first responders (as defined in section 630(a)), and for equipment to be used by first responders, to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

“(7) carry out such other related activities as are approved by the Director.

“(d) DESIGNATION OF REGIONAL CONTACTS.—The Associate Director shall designate an officer or employee of the Federal Emergency Management Agency in each of the 10 regions of the Agency to serve as the Office contact for the States in that region.

“(e) USE OF EXISTING RESOURCES.—In carrying out this section, the Associate Director shall—

“(1) to the maximum extent practicable, use existing resources, including planning documents, equipment lists, and program inventories; and

“(2) consult with and use—

“(A) existing Federal interagency boards and committees;

“(B) existing government agencies; and

“(C) nongovernmental organizations.”.

SEC. 199E. PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.

(a) IN GENERAL.—Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) is amended by adding at the end the following:

“SEC. 630. PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.

“(a) DEFINITIONS.—In this section:

“(1) FIRST RESPONDER.—The term ‘first responder’ means—

“(A) fire, emergency medical service, and law enforcement personnel; and

“(B) such other personnel as are identified by the Director.

“(2) LOCAL ENTITY.—The term ‘local entity’ has the meaning given the term by regulation promulgated by the Director.

“(3) PROGRAM.—The term ‘program’ means the program established under subsection (b).

“(b) PROGRAM TO PROVIDE ASSISTANCE.—

“(1) IN GENERAL.—The Director shall establish a program to provide assistance to States to enhance the ability of State and local first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction.

“(2) FEDERAL SHARE.—The Federal share of the costs eligible to be paid using assistance provided under the program shall be not less than 75 percent, as determined by the Director.

“(3) FORMS OF ASSISTANCE.—Assistance provided under paragraph (1) may consist of—

“(A) grants; and

“(B) such other forms of assistance as the Director determines to be appropriate.

“(c) USES OF ASSISTANCE.—Assistance provided under subsection (b)—

“(1) shall be used—

“(A) to purchase, to the maximum extent practicable, interoperable equipment that is necessary to respond to incidents of terrorism, including incidents involving weapons of mass destruction;

“(B) to train first responders, consistent with guidelines and standards developed by the Director;

“(C) in consultation with the Director, to develop, construct, or upgrade terrorism preparedness training facilities;

“(D) to develop, construct, or upgrade emergency operating centers;

“(E) to develop preparedness and response plans consistent with Federal, State, and local strategies, as determined by the Director;

“(F) to provide systems and equipment to meet communication needs, such as emergency notification systems, interoperable equipment, and secure communication equipment;

“(G) to conduct exercises; and

“(H) to carry out such other related activities as are approved by the Director; and

“(2) shall not be used to provide compensation to first responders (including payment for overtime).

“(d) ALLOCATION OF FUNDS.—For each fiscal year, in providing assistance under subsection (b), the Director shall make available—

“(1) to each of the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, \$3,000,000; and

“(2) to each State (other than a State specified in paragraph (1))—

“(A) a base amount of \$15,000,000; and

“(B) a percentage of the total remaining funds made available for the fiscal year based on criteria established by the Director, such as—

“(i) population;

“(ii) location of vital infrastructure, including—

“(I) military installations;

“(II) public buildings (as defined in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612));

“(III) nuclear power plants;

“(IV) chemical plants; and

“(V) national landmarks; and

“(iii) proximity to international borders.

“(e) PROVISION OF FUNDS TO LOCAL GOVERNMENTS AND LOCAL ENTITIES.—

“(1) IN GENERAL.—For each fiscal year, not less than 75 percent of the assistance provided to each State under this section shall be provided to local governments and local entities within the State.

“(2) ALLOCATION OF FUNDS.—Under paragraph (1), a State shall allocate assistance to local governments and local entities within the State in accordance with criteria established by the Director, such as the criteria specified in subsection (d)(2)(B).

“(3) DEADLINE FOR PROVISION OF FUNDS.—Under paragraph (1), a State shall provide all assistance to local government and local entities not later than 45 days after the date on which the State receives the assistance.

“(4) COORDINATION.—Each State shall coordinate with local governments and local entities concerning the use of assistance provided to local governments and local entities under paragraph (1).

“(f) ADMINISTRATIVE EXPENSES.—

“(1) DIRECTOR.—For each fiscal year, the Director may use to pay salaries and other administrative expenses incurred in administering the program not more than the lesser of—

“(A) 5 percent of the funds made available to carry out this section for the fiscal year; or

“(B)(i) for fiscal year 2003, \$75,000,000; and

“(ii) for each of fiscal years 2004 through 2006, \$50,000,000.

“(2) RECIPIENTS OF ASSISTANCE.—For each fiscal year, not more than 10 percent of the funds retained by a State after application of subsection (e) may be used to pay salaries and other administrative expenses incurred in administering the program.

“(g) MAINTENANCE OF EXPENDITURES.—The Director may provide assistance to a State under this section only if the State agrees to maintain, and to ensure that each local government that receives funds from the State in accordance with subsection (e) maintains, for the fiscal year for which the assistance is provided, the aggregate expenditures by the State or the local government, respectively, for the uses described in subsection (c)(1) at a level that is at or above the average annual level of those expenditures by the State or local government, respectively, for the 2 fiscal years preceding the fiscal year for which the assistance is provided.

“(h) REPORTS.—

“(1) ANNUAL REPORT TO THE DIRECTOR.—As a condition of receipt of assistance under this section for a fiscal year, a State shall submit to the Director, not later than 60 days after the end of the fiscal year, a report on the use of the assistance in the fiscal year.

“(2) EXERCISE AND REPORT TO CONGRESS.—As a condition of receipt of assistance under this section, not later than 3 years after the date of enactment of this section, a State shall—

“(A) conduct an exercise, or participate in a regional exercise, approved by the Director, to measure the progress of the State in enhancing the ability of State and local first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

“(B) submit a report on the results of the exercise to—

“(i) the Committee on Environment and Public Works and the Committee on Appropriations of the Senate; and

“(ii) the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives.

“(i) COORDINATION.—

“(1) WITH FEDERAL AGENCIES.—The Director shall, as necessary, coordinate the provision of assistance under this section with activities carried out by—

“(A) the Administrator of the United States Fire Administration in connection with the implementation by the Administrator of the assistance to firefighters grant program established under section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) (as added by section 1701(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (114 Stat. 1654, 1654A–360));

“(B) the Attorney General, in connection with the implementation of the Community Oriented Policing Services (COPS) Program established under section 1701(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(a)); and

“(C) other appropriate Federal agencies.

“(2) WITH INDIAN TRIBES.—In providing and using assistance under this section, the Director and the States shall, as appropriate, coordinate with—

“(A) Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) and other tribal organizations; and

“(B) Native villages (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)) and other Alaska Native organizations.”.

(b) COST SHARING FOR EMERGENCY OPERATING CENTERS.—Section 614 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196c) is amended—

(1) by inserting “(other than section 630)” after “carry out this title”; and

(2) by inserting “(other than section 630)” after “under this title”.

SEC. 199F. PROTECTION OF HEALTH AND SAFETY OF FIRST RESPONDERS.

Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) (as amended by section 199E(a)) is amended by adding at the end the following:

“SEC. 631. PROTECTION OF HEALTH AND SAFETY OF FIRST RESPONDERS.

“(a) DEFINITIONS.—In this section:

“(1) FIRST RESPONDER.—The term ‘first responder’ has the meaning given the term in section 630(a).

“(2) HARMFUL SUBSTANCE.—The term ‘harmful substance’ means a substance that the President determines may be harmful to human health.

“(3) PROGRAM.—The term ‘program’ means a program described in subsection (b)(1).

“(b) PROGRAM.—

“(1) IN GENERAL.—If the President determines that 1 or more harmful substances are being, or have been, released in an area that the President has declared to be a major disaster area under this Act, the President shall carry out a program with respect to the area for the protection, assessment, monitoring, and study of the health and safety of first responders.

“(2) ACTIVITIES.—A program shall include—
“(A) collection and analysis of environmental and exposure data;

“(B) development and dissemination of educational materials;

“(C) provision of information on releases of a harmful substance;

“(D) identification of, performance of baseline health assessments on, taking biological samples from, and establishment of an exposure registry of first responders exposed to a harmful substance;

“(E) study of the long-term health impacts of any exposures of first responders to a harmful substance through epidemiological studies; and

“(F) provision of assistance to participants in registries and studies under subparagraphs (D) and (E) in determining eligibility for health coverage and identifying appropriate health services.

“(3) PARTICIPATION IN REGISTRIES AND STUDIES.—

“(A) IN GENERAL.—Participation in any registry or study under subparagraph (D) or (E) of paragraph (2) shall be voluntary.

“(B) PROTECTION OF PRIVACY.—The President shall take appropriate measures to protect the privacy of any participant in a registry or study described in subparagraph (A).

“(4) COOPERATIVE AGREEMENTS.—The President may carry out a program through a cooperative agreement with a medical or academic institution, or a consortium of such institutions, that is—

“(A) located in close proximity to the major disaster area with respect to which the program is carried out; and

“(B) experienced in the area of environmental or occupational health and safety, including experience in—

“(i) conducting long-term epidemiological studies;

“(ii) conducting long-term mental health studies; and

“(iii) establishing and maintaining environmental exposure or disease registries.

“(c) REPORTS AND RESPONSES TO STUDIES.—

“(1) REPORTS.—Not later than 1 year after the date of completion of a study under subsection (b)(2)(E), the President, or the medical or academic institution or consortium of such institutions that entered into the cooperative agreement under subsection (b)(4), shall submit to the Director, the Secretary of Health and Human Services, the Secretary of Labor, and the Administrator of the Environmental Protection Agency a report on the study.

“(2) CHANGES IN PROCEDURES.—To protect the health and safety of first responders, the President shall make such changes in procedures as the President determines to be necessary based on the findings of a report submitted under paragraph (1).”

SEC. 199G. URBAN SEARCH AND RESCUE TASK FORCES.

Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) (as amended by section 199F) is amended by adding at the end the following:

“SEC. 632. URBAN SEARCH AND RESCUE TASK FORCES.

“(a) DEFINITIONS.—In this section:

“(1) URBAN SEARCH AND RESCUE EQUIPMENT.—The term ‘urban search and rescue equipment’ means any equipment that the Director determines to be necessary to respond to a major disaster or emergency declared by the President under this Act.

“(2) URBAN SEARCH AND RESCUE TASK FORCE.—The term ‘urban search and rescue task force’ means any of the 28 urban search and rescue task forces designated by the Director as of the date of enactment of this section.

“(b) ASSISTANCE.—

“(1) MANDATORY GRANTS FOR COSTS OF OPERATIONS.—For each fiscal year, of the amounts made available to carry out this section, the Director shall provide to each urban search and rescue task force a grant of not less than \$1,500,000 to pay the costs of operations of the urban search and rescue task force (including costs of basic urban search and rescue equipment).

“(2) DISCRETIONARY GRANTS.—The Director may provide to any urban search and rescue task force a grant, in such amount as the Director determines to be appropriate, to pay the costs of—

“(A) operations in excess of the funds provided under paragraph (1);

“(B) urban search and rescue equipment;

“(C) equipment necessary for an urban search and rescue task force to operate in an environment contaminated or otherwise affected by a weapon of mass destruction;

“(D) training, including training for operating in an environment described in subparagraph (C);

“(E) transportation;

“(F) expansion of the urban search and rescue task force; and

“(G) incident support teams, including costs of conducting appropriate evaluations of the readiness of the urban search and rescue task force.

“(3) PRIORITY FOR FUNDING.—The Director shall distribute funding under this subsection so as to ensure that each urban search and rescue task force has the capacity to deploy simultaneously at least 2 teams with all necessary equipment, training, and transportation.

“(c) GRANT REQUIREMENTS.—The Director shall establish such requirements as are necessary to provide grants under this section.

“(d) ESTABLISHMENT OF ADDITIONAL URBAN SEARCH AND RESCUE TASK FORCES.—

“(1) IN GENERAL.—Subject to paragraph (2), the Director may establish urban search and rescue task forces in addition to the 28 urban search and rescue task forces in existence on the date of enactment of this section.

“(2) REQUIREMENT OF FULL FUNDING OF EXISTING URBAN SEARCH AND RESCUE TASK FORCES.—Except in the case of an urban search and rescue task force designated to replace any urban search and rescue task force that withdraws or is otherwise no longer considered to be an urban search and rescue task force designated by the Director, no additional urban search and rescue task forces may be designated or funded until the

28 urban search and rescue task forces are able to deploy simultaneously at least 2 teams with all necessary equipment, training, and transportation.”

SEC. 199H. AUTHORIZATION OF APPROPRIATIONS.

Section 626 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197e) is amended by striking subsection (a) and inserting the following:

“(a) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this title (other than sections 630 and 632).

“(2) PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.—There are authorized to be appropriated to carry out section 630—

“(A) \$3,340,000,000 for fiscal year 2003; and

“(B) \$3,458,000,000 for each of fiscal years 2004 through 2006.

“(3) URBAN SEARCH AND RESCUE TASK FORCES.—

“(A) IN GENERAL.—There are authorized to be appropriated to carry out section 632—

“(i) \$160,000,000 for fiscal year 2003; and

“(ii) \$42,000,000 for each of fiscal years 2004 through 2006.

“(B) AVAILABILITY OF AMOUNTS.—Amounts made available under subparagraph (A) shall remain available until expended.”

SA 4833. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows;

On page 68, strike lines 14 through 23 and insert the following:

SEC. 134. FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) HOMELAND SECURITY DUTIES.—

(1) IN GENERAL.—The Federal Emergency Management Agency shall be responsible for the emergency preparedness and response functions of the Department.

(2) FUNCTION.—Except as provided in paragraph (3) and subsections (b) through (e), nothing in this Act affects the administration or administrative jurisdiction of the Federal Emergency Management Agency as in existence on the day before the date of enactment of this Act.

(3) DIRECTOR.—In carrying out responsibilities of the Federal Emergency Management Agency under all applicable law, the Director of the Federal Emergency Management Agency shall report—

(A) to the President directly, with respect to all matters relating to a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

(B) to the Secretary, with respect to all other matters.

On page 69, strike lines 1 through 7 and insert the following:

(b) SPECIFIC RESPONSIBILITIES.—The Director of the Federal Emergency Management Agency shall be responsible for the following:

(1) Carrying out all emergency preparedness and response activities of the Department.

On page 69, line 23, strike “Creating a National Crisis Action Center to act” and inserting “Acting”.

On page 72, line 4, strike “other”.

On page 72, line 14, strike “Department” and insert “Federal Emergency Management Agency”.

On page 72, strike lines 15 through 19.

On page 72, line 20, strike “(2)” and insert “(1)”.

On page 72, line 23, strike “(3)” and insert “(2)”.

On page 73, line 1, strike “(4)” and insert “(3)”.

On page 73, line 17, strike “(5)” and insert “(4)”.

On page 73, line 23, strike “(6)” and insert “(5)”.

On page 74, strike lines 7 through 22 and insert the following:

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall submit a report

On page 75, between lines 2 and 3, insert the following:

(f) CONFORMING AMENDMENT.—Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is amended by inserting “incident of terrorism,” after “drought,”.

On page 114, strike lines 13 and 14.

On page 128, line 24, strike “134(b)(7)” and insert “134(b)”.

SA 4834. Mr. JEFFORDS (for himself and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, line 8, strike “terrorism, natural disasters,” and insert “terrorism”.

On page 11, strike lines 6 through 13 and insert the following:

homeland threats within the United States; and

(C) reduce the vulnerability of the United States to terrorism and other homeland threats.

On page 12, line 23, strike “emergency preparedness and response,”.

On page 13, strike lines 3 through 5 and insert the following:

transportation security and critical infrastructure protection.

On page 15, line 14, insert “and the Director of the Federal Emergency Management Agency” after “Defense”.

On page 16, strike lines 13 through 16.

On page 16, line 17, strike “(15)” and insert “(14)”.

On page 16, line 20, strike “(16)” and insert “(15)”.

On page 16, line 24, strike “(17)” and insert “(16)”.

On page 17, line 4, strike “(18)” and insert “(17)”.

On page 17, line 8, strike “(19)” and insert “(18)”.

Beginning on page 68, strike line 14 and all that follows through page 75, line 3.

On page 75, line 3, strike “135” and insert 134”.

On page 103, line 13, strike “136” and insert 135”.

On page 103, line 17, strike “T2137” and insert 136”.

On page 109, line 10, strike “of the Department”.

On page 112, line 5, strike “138” and insert 137”.

On page 112, line 10, strike “T2139” and insert 138”.

On page 112, between lines 4 and 5, insert the following:

(f) COORDINATION WITH FEDERAL EMERGENCY MANAGEMENT AGENCY.—

(1) IN GENERAL.—In carrying out all responsibilities of the Secretary under this section, the Secretary shall coordinate with the Director of the Federal Emergency Management Agency.

(2) CONFORMING AMENDMENT.—Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is amended by inserting “incident of terrorism,” after “drought,”.

On page 114, line 6, strike “140” and insert 139”.

On page 114, strike lines 13 and 14.

On page 115, line 3, strike “in the Department” and insert “within the Federal Emergency Management Agency”.

On page 116, line 21, strike “Department” and insert “Federal Emergency Management Agency”.

Beginning on page 128, strike line 22 and all that follows through page 129, line 5, and insert the following:

(a) IN GENERAL.—Full disclosure among relevant agencies shall be made in accordance with this section.

(b) PUBLIC HEALTH EMERGENCY.—During the

On page 129, strike lines 15 and 16 and insert the following:

(c) POTENTIAL PUBLIC HEALTH EMERGENCY.—In cases involving, or potentially involving,

On page 186, line 25, and page 187, line 1, strike “emergency preparation and response,”.

On page 187, insert “emergency preparedness and response,” after “assets,”.

Beginning on page 161, strike line 19 and all that follows through page 162, line 2, and insert the following:

(b) BIENNIAL REPORT.—Not later than 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary shall submit to Congress a report assessing the resources and requirements of executive agencies relating to border security.

SA 4835. Mr. DEWINE (for himself, Mr. BINGAMAN, Mr. DORGAN, Mr. DOMENICI, Mr. THURMOND, Ms. CANTWELL, Mr. HELMS, Mr. ALLARD, Mr. LIEBERMAN, Mr. CARPER, and Mr. DODD) submitted an amendment intended to be proposed by him to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 45, line 20, strike “\$75,695,000” and insert “\$72,695,000”.

On page 85, line 3, strike “\$20,831,000” and insert “\$17,831,000”.

On page 85, line 19, strike “\$921,741,000” and insert “\$927,741,000”.

On page 85, line 20, strike “until expended” and insert “until expended, of which not less than \$10,000,000 shall be made available for the Next Generation of Lighting Initiative”.

SA 4836. Mr. HOLLINGS (for himself, Mr. MCCAIN, Mr. CARPER, and Mr. TORRICELLI) submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . RAIL SECURITY ENHANCEMENTS.

(a) EMERGENCY AMTRAK ASSISTANCE.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak—

(A) \$430,000,000 for systemwide security upgrades, including the reimbursement of extraordinary security related costs determined by the Secretary of Transportation to

have been incurred by Amtrak since September 11, 2001, and including the hiring and training additional police officers, canine-assisted security units, and surveillance equipment; and

(B) \$778,000,000 to be used to complete New York tunnel life safety projects and rehabilitate tunnels in Washington, D.C., and Baltimore, Maryland.

(2) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

(3) PLAN REQUIRED.—Except for extraordinary security-related costs determined by the Secretary of Transportation to have been incurred by Amtrak since September 11, 2001, which are subject to subparagraph (3)(C) of this paragraph, the Secretary may not make amounts available to Amtrak for obligation or expenditure under paragraph (1)—

(A) for implementing systemwide security upgrades until Amtrak has submitted to the Secretary of Transportation, and the Secretary has approved, after consultation with the head of the department exercising the authority granted by section 114 of title 49, United States Code, if that department is not the Department of Transportation, a plan for such upgrades;

(B) for completing the tunnel life safety and rehabilitation projects until Amtrak has submitted to the Secretary of Transportation, and the Secretary has approved, an engineering and financial plan for such projects; and

(C) Amtrak has submitted to the Secretary of Transportation such additional information as the Secretary may require in order to ensure full accountability for the obligation or expenditure of amounts made available to Amtrak for the purpose for which the funds are provided.

(4) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary of Transportation shall, taking into account the need for the timely completion of all life safety portions of the tunnel projects described in paragraph (3)(B)—

(A) consider the extent to which rail carriers other than Amtrak use the tunnels;

(B) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(C) obtain financial contributions or commitments from such other rail carriers if feasible.

(5) REVIEW OF PLAN.—The Secretary of Transportation shall complete the review of the plan required by paragraph (3) and approve or disapprove the plan within 45 days after the date on which the plan is submitted by Amtrak. If the Secretary determines that the plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary's notification, submit a modified plan for the Secretary's review. Within 15 days after receiving a modified plan from Amtrak, the Secretary shall either approve the modified plan, or if the Secretary finds the plan is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the portions of the plan the Secretary finds incomplete or deficient, approve all other portions of the plan, release the funds associated with those other portions, and execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

(6) 50-PERCENT TO BE SPENT OUTSIDE THE NORTHEAST CORRIDOR.—The Secretary of Transportation shall ensure that up to 50

percent of the amounts appropriated pursuant to paragraph (1)(A) is obligated or expended for projects outside the Northeast Corridor.

(7) ASSESSMENTS BY DOT INSPECTOR GENERAL.—

(A) INITIAL ASSESSMENT.—Within 60 days after the date of enactment of this Act, the Inspector General of the Department of Transportation shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report—

(i) identifying any overlap between capital projects for which funds are provided under such funding documents, procedures, or arrangements and capital projects included in Amtrak's 20-year capital plan; and

(ii) indicating any adjustments that need to be made in that plan to exclude projects for which funds are appropriated or obligated pursuant to paragraph (1).

(B) OVERLAP REVIEW.—The Inspector General shall, part of the Department's annual assessment of Amtrak's financial status and capital funding requirements review the obligations and expenditure of funds under each such funding document, procedure, or arrangement to ensure that the expenditure and obligation of those funds are consistent with the purposes for which they are provided under this Act.

(8) COORDINATION WITH EXISTING LAW.—Amounts made available to Amtrak under this subsection shall not be considered to be Federal assistance for purposes of part C of subtitle V of title 49, United States Code.

(9) PROHIBITION ON USE OF EQUIPMENT FOR EMPLOYMENT-RELATED PURPOSES.—An employer may not use closed circuit television cameras purchased with amounts authorized by this section for employee disciplinary or monitoring purposes unrelated to transportation security.

(b) RAIL POLICE OFFICERS.—Section 28101 of title 49, United States Code, is amended by striking "the rail carrier" each place it appears and inserting "any rail carrier".

SA 4837. Mr. REID (for Mr. ROCKEFELLER) proposed an amendment to the bill H.R. 4085, to amend title 38, United States Code, to provide a cost-of-living increase in the rates of compensation for veterans with service-connected disability and dependency and indemnity compensation for surviving spouses of such veterans to expand certain benefits for veterans and their survivors, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 2002".

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) RATE ADJUSTMENT.—The Secretary of Veterans Affairs shall, effective on December 1, 2002, increase the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation by the Secretary, as specified in subsection (b).

(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) COMPENSATION.—Each of the dollar amounts in effect under section 1114 of title 38, United States Code.

(2) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts in effect under section 1115(1) of such title.

(3) CLOTHING ALLOWANCE.—The dollar amount in effect under section 1162 of such title.

(4) NEW DIC RATES.—The dollar amounts in effect under paragraphs (1) and (2) of section 1311(a) of such title.

(5) OLD DIC RATES.—Each of the dollar amounts in effect under section 1311(a)(3) of such title.

(6) ADDITIONAL DIC FOR SURVIVING SPOUSES WITH MINOR CHILDREN.—The dollar amount in effect under section 1311(b) of such title.

(7) ADDITIONAL DIC FOR DISABILITY.—The dollar amounts in effect under sections 1311(c) and 1311(d) of such title.

(8) DIC FOR DEPENDENT CHILDREN.—The dollar amounts in effect under sections 1313(a) and 1314 of such title.

(c) DETERMINATION OF INCREASE.—(1) The increase under subsection (a) shall be made in the dollar amounts specified in subsection (b) as in effect on November 30, 2002.

(2) Except as provided in paragraph (3), each such amount shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2002, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(3) Each dollar amount increased pursuant to paragraph (2) shall, if not a whole dollar amount, be rounded down to the next lower whole dollar amount.

(d) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 3. PUBLICATION OF ADJUSTED RATES.

At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 2003, the Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in subsection (b) of section 2, as increased pursuant to that section.

Amend the title to read: "An Act to increase, effective as of December 1, 2002, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans."

SA 4838. Mr. REID (for Mr. ROCKEFELLER) proposed an amendment to the bill S. 2237, to amend title 38, United States Code, to modify and improve authorities relating to compensation and pension benefits, education benefits, housing benefits, and other benefits for veterans, to improve the administration of benefits for veterans, and for other purposes; as follows:

Strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans Benefits Improvement Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. References to title 38, United States Code.

TITLE I—COMPENSATION AND PENSION MATTERS

Sec. 101. Clarification of entitlement to wartime disability compensation for women veterans who have service-connected mastectomies.

Sec. 102. Compensation for hearing loss in paired organs.

Sec. 103. Authority for presumption of service connection for hearing loss associated with particular military occupational specialties.

Sec. 104. Modification of authorities on Medal of Honor Roll special pension.

Sec. 105. Applicability of prohibition on assignment of veterans benefits to agreements on future receipt of certain benefits.

Sec. 106. Extension of income verification authority.

TITLE II—EDUCATION MATTERS

Sec. 201. Three-year increase in aggregate annual amount available for State approving agencies for administrative expenses.

Sec. 202. Clarifying improvement of various education authorities.

TITLE III—HOUSING MATTERS

Sec. 301. Authority to guarantee adjustable rate mortgages and hybrid adjustable rate mortgages.

TITLE IV—OTHER BENEFITS MATTERS

Sec. 401. Treatment of duty of National Guard mobilized by States for homeland security activities as military service under Soldiers' and Sailors' Civil Relief Act of 1940.

Sec. 402. Prohibition on certain additional benefits for persons committing capital crimes.

Sec. 403. Procedures for disqualification of persons committing capital crimes for interment or memorialization in national cemeteries.

TITLE V—JUDICIAL, PROCEDURAL, AND ADMINISTRATIVE MATTERS

Sec. 501. Standard for reversal by Court of Appeals for Veterans Claims of erroneous finding of fact by Board of Veterans' Appeals.

Sec. 502. Review by Court of Appeals for the Federal Circuit of decisions of law of Court of Appeals for Veterans Claims.

Sec. 503. Authority of Court of Appeals for Veterans Claims to award fees under Equal Access to Justice Act for non-attorney practitioners.

Sec. 504. Retroactive applicability of modifications of authority and requirements to assist claimants.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION AND PENSION MATTERS

SEC. 101. CLARIFICATION OF ENTITLEMENT TO WARTIME DISABILITY COMPENSATION FOR WOMEN VETERANS WHO HAVE SERVICE-CONNECTED MASTECTOMIES.

(a) IN GENERAL.—Section 1114(k) is amended by inserting "of half or more of the tissue" after "anatomical loss" the second place it appears.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to months that begin on or after that date.

SEC. 102. COMPENSATION FOR HEARING LOSS IN PAIRED ORGANS.

(a) HEARING LOSS REQUIRED FOR COMPENSATION.—Section 1160(a)(3) is amended—

(1) by striking "total deafness" the first place it appears and inserting "deafness compensable to a degree of 10 percent or more"; and

(2) by striking "total deafness" the second place it appears and inserting "deafness".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to months that begin on or after that date.

SEC. 103. AUTHORITY FOR PRESUMPTION OF SERVICE CONNECTION FOR HEARING LOSS ASSOCIATED WITH PARTICULAR MILITARY OCCUPATIONAL SPECIALTIES.

(a) IN GENERAL.—(1) Subchapter II of chapter 11 is amended by adding at the end the following new section:

"§ 1119. Presumption of service connection for hearing loss associated with particular military occupational specialties

"(a) For purposes of section 1110 of this title, and subject to section 1113 of this title, hearing loss, tinnitus, or both of a veteran who served on active military, naval, or air service during a period specified by the Secretary under subsection (b)(1) and was assigned during the period of such service to a military occupational specialty or equivalent described in subsection (b)(2) shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of evidence of such hearing loss or tinnitus, as the case may be, during the period of such service.

"(b)(1) A period referred to in subsection (a) is a period, if any, that the Secretary determines in regulations prescribed under this section—

"(A) during which audiometric measures were consistently not adequate to assess individual hearing threshold shift; or

"(B) with respect to service in a military occupational specialty or equivalent described in paragraph (2), during which hearing conservation measures to prevent individual hearing threshold shift were unavailable or provided insufficient protection for members assigned to such military occupational specialty or equivalent.

"(2) A military occupational specialty or equivalent referred to in subsection (a) is a military occupational specialty or equivalent, if any, that the Secretary determines in regulations prescribed under this section in which individuals assigned to such military occupational specialty or equivalent in the active military, naval, or air service are or were likely to be exposed to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both.

"(c) In making determinations for purposes of subsection (b), the Secretary shall take into account the report submitted to the Secretary by the National Academy of Sciences under section 103(c) of the Veterans Benefits Improvement Act of 2002.

"(d)(1) Not later than 60 days after the date on which the Secretary receives the report referred to in subsection (c), the Secretary shall determine whether or not a presumption of service connection for hearing loss, tinnitus, or both is warranted for the hearing loss, tinnitus, or both, as the case may be, of individuals assigned to each military occupational specialty or equivalent, and during each period, identified by the National Academy of Sciences in such report as a military occupational specialty or equivalent in which individuals are or were likely to be exposed during such period to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both to a degree which would be compensable as a service-connected disability under the laws administered by the Secretary.

"(2) If the Secretary determines under paragraph (1) that a presumption of service connection is warranted with respect to any military occupational specialty or equivalent described in that paragraph and hearing loss, tinnitus, or both, the Secretary shall, not later than 60 days after the date of the determination, issue pro-

posed regulations setting forth the Secretary's determination.

"(3) If the Secretary determines under paragraph (1) that a presumption of service connection is not warranted with respect to any military occupational specialty or equivalent described in that paragraph and hearing loss, tinnitus, or both, the Secretary shall, not later than 60 days after the date of the determination—

"(A) publish the determination in the Federal Register; and

"(B) submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the determination, including a justification for the determination.

"(e) Any regulations issued under subsection (d)(2) shall take effect on the date provided for in such regulations. No benefit may be paid under this section for any month that begins before that date."

(2) The table of sections at the beginning of chapter 11 is amended by inserting after the item relating to section 1118 the following new item:

"1119. Presumption of service connection for hearing loss associated with particular military occupational specialties."

(b) PRESUMPTION REBUTTABLE.—Section 1113 is amended by striking "or 1118" each place it appears and inserting "1118, or 1119".

(c) ASSESSMENT OF ACOUSTIC TRAUMA ASSOCIATED WITH VARIOUS MILITARY OCCUPATIONAL SPECIALTIES.—(1) The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences, or another appropriate scientific organization, for the Academy to perform the activities specified in this subsection. The Secretary shall seek to enter into the agreement not later than 60 days after the date of the enactment of this Act.

(2) Under the agreement under paragraph (1), the National Academy of Sciences shall—

(A) review and assess available data on occupational hearing loss;

(B) from such data, identify the forms of acoustic trauma that, if experienced by individuals in the active military, naval, or air service, could cause or contribute to hearing loss, hearing threshold shift, or tinnitus in such individuals;

(C) in the case of each form of acoustic trauma identified under subparagraph (B)—

(i) determine how much exposure to such form of acoustic trauma is required to cause or contribute to hearing loss, hearing threshold shift, or tinnitus, as the case may be, and at what noise level; and

(ii) determine whether or not such hearing loss, hearing threshold shift, or tinnitus, as the case may be, is—

(I) immediate or delayed onset;

(II) cumulative;

(III) progressive; or

(IV) any combination of subclauses (I) through (III);

(D) review and assess the completeness and adequacy of data of the Department of Veterans Affairs and the Department of Defense on hearing threshold shift in a representative sample of individuals who were discharged or released from service in the Armed Forces following World War II, the Korean conflict, and the Vietnam era, and in peacetime during the period from the end of the Vietnam era to the beginning of the Persian Gulf War, and during the Persian Gulf War, with such sample to be selected so as to reflect an appropriate distribution of individuals among the various Armed Forces;

(E) identify each military occupational specialty or equivalent, if any, in which individuals assigned to such military occupational specialty or equivalent in the active military, naval, or air service are or were likely to be exposed to a sufficiently high level of acoustic trauma as to result in permanent hearing loss,

tinnitus, or both to a degree which would be compensable as a service-connected disability under the laws administered by the Secretary of Veterans Affairs; and

(F) assess when, if ever—

(i) audiometric measures became adequate to evaluate individual hearing threshold shift; and

(ii) hearing conservation measures to prevent individual hearing threshold shift were available and provided sufficient protection for members assigned to each military occupational specialty or equivalent identified under subparagraph (E).

(3) Not later than 180 days after the date of the entry into the agreement referred to in paragraph (1), the National Academy of Sciences shall submit to the Secretary a report on the activities of the National Academy of Sciences under the agreement, including the results of the activities required by subparagraphs (A) through (F) of paragraph (2).

(4) For purposes of paragraph (2)(D), the terms "World War II", "Korean conflict", "Vietnam era", and "Persian Gulf War" have the meanings given such terms in section 101 of title 38, United States Code.

(d) REPORT ON ADMINISTRATION OF BENEFITS FOR HEARING LOSS AND TINNITUS.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the claims submitted to the Secretary for disability compensation or health care for hearing loss or tinnitus.

(2) The report under paragraph (1) shall include the following:

(A) The number of claims submitted to the Secretary in each of 1999, 2000, and 2001 for disability compensation for hearing loss, tinnitus, or both.

(B) Of the claims referred to in subparagraph (A)—

(i) the number of claims for which disability compensation was awarded, set forth by year;

(ii) the number of claims assigned each disability rating; and

(iii) the total amount of disability compensation paid on such claims during each such year.

(C) The total cost to the Department of Veterans Affairs of adjudicating the claims referred to in subparagraph (A), set forth in terms of full-time employee equivalents (FTEEs).

(D) The total number of veterans who sought treatment in Department health care facilities in each of 1999, 2000, and 2001 for hearing-related disorders, set forth by—

(i) the number of veterans per year; and

(ii) the military occupational specialties or equivalents of such veterans during their active military, naval, or air service.

(E) The health care furnished to veterans referred to in subparagraph (D) for hearing-related disorders, including the number of veterans furnished hearing aids and the cost of furnishing such hearing aids.

SEC. 104. MODIFICATION OF AUTHORITIES ON MEDAL OF HONOR ROLL SPECIAL PENSION.

(a) INCREASE IN AMOUNT.—Subsection (a) of section 1562 is amended by striking "\$600" and inserting "\$1,000, as adjusted from time to time under subsection (e)".

(b) ANNUAL ADJUSTMENT.—That section is further amended by adding at the end the following:

"(e) Effective as of December 1 each year, the Secretary shall increase the amount of monthly special pension payable under subsection (a) as of November 30 of such year by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1 of such year as a result of a determination under section 215(i) of that Act (42 U.S.C. 415(i))."

(c) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall take effect on the date

of the enactment of this Act, and shall apply with respect to months that begin on or after that date.

(2) The Secretary of Veterans Affairs shall not make any adjustment under subsection (e) of section 1562 of title 38, United States Code, as added by subsection (b) of this section, in 2002.

(d) PAYMENT OF LUMP SUM FOR PERIOD BETWEEN ACT OF VALOR AND COMMENCEMENT OF SPECIAL PENSION.—(1) The Secretary of Veterans Affairs shall pay, in a lump sum, to each person who is in receipt of special pension payable under section 1562 of title 38, United States Code, an amount equal to the total amount of special pension that the person would have received during the period beginning on the first day of the first month beginning after the date of the act for which the person was awarded the Medal of Honor and ending on the last day of the month preceding the month in which the person's special pension in fact commenced.

(2) For each month of a period referred to in paragraph (1), the amount of special pension payable to a person shall be determined using the rate of special pension that was in effect for such month, and shall be payable only if the person would have been entitled to payment of special pension during such month under laws for eligibility for special pension in effect at the beginning of such month.

SEC. 105. APPLICABILITY OF PROHIBITION ON ASSIGNMENT OF VETERANS BENEFITS TO AGREEMENTS ON FUTURE RECEIPT OF CERTAIN BENEFITS.

(a) IN GENERAL.—Section 5301(a) is amended—

(1) by inserting “(1)” after “(a)”;
(2) by designating the last sentence as paragraph (2) and indenting such paragraph, as so designated, two ems from the left margin; and
(3) by adding at the end the following new paragraph:

“(3)(A) For purposes of this subsection, in any case where a beneficiary entitled to compensation, pension, or dependency and indemnity compensation enters into an agreement with another person under which agreement such other person acquires for consideration the right to receive payment of such compensation, pension, or dependency and indemnity compensation, as the case may be, whether by payment from the beneficiary to such other person, deposit into an account from which such other person may make withdrawals, or otherwise, such agreement shall be deemed to be an assignment and is prohibited.

“(B) Any agreement or arrangement for collateral security for an agreement that is prohibited under subparagraph (A) is also prohibited.

“(C)(i) Any person who enters into an agreement that is prohibited under subparagraph (A), or an agreement or arrangement that is prohibited under subparagraph (B), shall be fined under title 18, imprisoned for not more than one year, or both.

“(ii) This subparagraph does not apply to a beneficiary with respect to compensation, pension, or dependency and indemnity compensation to which the beneficiary is entitled under a law administered by the Secretary.”.

(b) EFFECTIVE DATE.—Paragraph (3) of section 5301(a) of title 38, United States Code (as added by subsection (a) of this section), shall apply with respect to any agreement or arrangement described in such paragraph that is entered into on or after the date of the enactment of this Act.

(c) OUTREACH.—The Secretary of Veterans Affairs shall, during the five-year period beginning on the date of the enactment of this Act, carry out a program of outreach to inform veterans and other recipients or potential recipients of compensation, pension, or dependency and indemnity compensation benefits under the laws administered by the Secretary of the prohibition on the assignment of such benefits under law. The program shall include information on various schemes to evade the prohibition, and means of avoiding such schemes.

SEC. 106. EXTENSION OF INCOME VERIFICATION AUTHORITY.

(a) TITLE 38, UNITED STATES CODE.—Section 5317(g) is amended by striking “September 30, 2008” and inserting “September 30, 2011”.

(b) INTERNAL REVENUE CODE.—Section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 is amended by striking “September 30, 2003” and inserting “September 30, 2011”.

TITLE II—EDUCATION MATTERS

SEC. 201. THREE-YEAR INCREASE IN AGGREGATE ANNUAL AMOUNT AVAILABLE FOR STATE APPROVING AGENCIES FOR ADMINISTRATIVE EXPENSES.

(a) INCREASE IN AMOUNT.—Section 3674(a)(4) is amended in the first sentence by striking “fiscal years 2001 and 2002, \$14,000,000” and inserting “fiscal years 2003, 2004, and 2005, \$18,000,000”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2002.

SEC. 202. CLARIFYING IMPROVEMENT OF VARIOUS EDUCATION AUTHORITIES.

(a) ELIGIBILITY OF CERTAIN ADDITIONAL VIETNAM ERA VETERANS.—Section 3011(a)(1)(C)(ii) is amended by striking “on or”.

(b) ACCELERATED PAYMENT OF ASSISTANCE FOR EDUCATION LEADING TO EMPLOYMENT IN HIGH TECHNOLOGY INDUSTRY.—(1) Subsection (b)(1) of section 3014A is amended by striking “employment in a high technology industry” and inserting “employment in a high technology occupation in a high technology industry”.

(2)(A) The heading for section 3014A is amended to read as follows:

“§3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology occupation in high technology industry”.

(B) The table of sections at the beginning of chapter 30 is amended by striking the item relating to section 3014A and inserting the following new item:

“3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology occupation in high technology industry.”.

(c) SOURCE OF FUNDS FOR INCREASED USAGE OF ENTITLEMENT UNDER ENTITLEMENT TRANSFER AUTHORITY.—Section 3035(b) is amended—

(1) in paragraph (1), by striking “paragraphs (2) and (3) of this subsection,” and inserting “paragraphs (2), (3), and (4),”; and

(2) by adding at the end the following new paragraph:

“(4) Payments attributable to the increased usage of benefits as a result of transfers of entitlement to basic educational assistance under section 3020 of this title shall be made from the Department of Defense Education Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Transportation, as appropriate.”.

(d) LICENSING OR CERTIFICATION TESTS.—(1) Section 3232(c)(1) is amended by striking “a licensing” and inserting “a particular licensing”.

(2) Section 3689 is amended—

(A) in subsection (b)(1)(B), by inserting “and with such other standards as the Secretary may prescribe,” after “practices,”; and

(B) in subsection (c)(1)(A), by inserting “and with such other standards as the Secretary may prescribe,” after “practices,”.

(3) Section 3689(c)(1)(B) is amended by striking “the test” and inserting “such test, or a test to certify or license in a similar or related occupation,”.

(e) PERIOD OF ELIGIBILITY FOR SURVIVORS' AND DEPENDENTS' ASSISTANCE.—Section 3512(a) is amended—

(1) in paragraph (3), by striking “paragraph (4)” in the matter preceding subparagraph (A) and inserting “paragraph (4) or (5)”;
(2) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively;

(3) by inserting after paragraph (3) the following new paragraph (4):

“(4) if the person otherwise eligible under paragraph (3) fails to elect a beginning date of entitlement in accordance with that paragraph, the beginning date of the person's entitlement shall be the date of the Secretary's decision that the parent has a service-connected total disability permanent in nature, or that the parent's death was service-connected, whichever is applicable;”; and

(4) in paragraph (6), as so redesignated, by striking “paragraph (4)” and inserting “paragraph (5)”.

TITLE III—HOUSING MATTERS

SEC. 301. AUTHORITY TO GUARANTEE ADJUSTABLE RATE MORTGAGES AND HYBRID ADJUSTABLE RATE MORTGAGES.

(a) THREE-YEAR EXTENSION OF AUTHORITY TO GUARANTEE ADJUSTABLE RATE MORTGAGES.—Subsection (a) of section 3707 is amended by striking “during fiscal years 1993, 1994, and 1995” and inserting “through fiscal year 2005”.

(b) AUTHORITY TO GUARANTEE HYBRID ADJUSTABLE RATE MORTGAGES.—That section is further amended—

(1) in subsection (b), by striking “Interest rate adjustment provisions” and inserting “Except as provided in subsection (c)(1), interest rate adjustment provisions”;
(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following new subsection (c):

“(c) Adjustable rate mortgages that are guaranteed under this section shall include adjustable rate mortgages (commonly referred to as ‘hybrid adjustable rate mortgages’) having interest rate adjustment provisions that—

“(1) are not subject to subsection (b)(1);

“(2) specify an initial rate of interest that is fixed for a period of not less than the first three years of the mortgage term;

“(3) provide for an initial adjustment in the rate of interest by the mortgagee at the end of the period described in paragraph (2); and

“(4) comply in such initial adjustment, and any subsequent adjustment, with paragraphs (2) through (4) of subsection (b).”.

(c) IMPLEMENTATION OF AUTHORITY TO GUARANTEE HYBRID ADJUSTABLE RATE MORTGAGES.—The Secretary of Veterans Affairs shall exercise the authority under section 3707 of title 38, United States Code, as amended by this section, to guarantee adjustable rate mortgages described in subsection (c) of such section 3707, as so amended, in advance of any rulemaking otherwise required to implement such authority.

TITLE IV—OTHER BENEFITS MATTERS

SEC. 401. TREATMENT OF DUTY OF NATIONAL GUARD MOBILIZED BY STATES FOR HOMELAND SECURITY ACTIVITIES AS MILITARY SERVICE UNDER SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940.

Section 101(1) of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 511(1)) is amended—

(1) in the first sentence—

(A) by striking “and all” and inserting “all”; and

(B) by inserting before the period the following: “, and all members of the National Guard on service described in the following sentence”; and

(2) in the second sentence, by inserting before the period the following: “, and shall include service in the National Guard, pursuant to a call or order to duty by the Governor of a State, upon the request of a Federal law enforcement agency and with the concurrence of the Secretary of Defense, to perform full-time duty under section 502(f) of title 32, United States Code, for purposes of carrying out homeland security activities”.

SEC. 402. PROHIBITION ON CERTAIN ADDITIONAL BENEFITS FOR PERSONS COMMITTING CAPITAL CRIMES.

(a) **PRESIDENTIAL MEMORIAL CERTIFICATE.**—Section 112 is amended by adding at the end the following new subsection:

“(c) A certificate may not be furnished under the program under subsection (a) on behalf of a deceased person described in section 2411(b) of this title.”.

(b) **FLAG TO DRAPE CASKET.**—Section 2301 is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

“(g) A flag may not be furnished under this section on behalf of a deceased person described in section 2411(b) of this title.”.

(c) **HEADSTONE OR MARKER FOR GRAVE.**—Section 2306 is amended by adding at the end the following new subsection:

“(g)(1) A headstone or marker may not be furnished under subsection (a) for the unmarked grave of a person described in section 2411(b) of this title.

“(2) A memorial headstone or marker may not be furnished under subsection (b) for the purpose of commemorating a person described in section 2411(b) of this title.

“(3) A marker may not be furnished under subsection (d) for the grave of a person described in section 2411(b) of this title.”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to deaths occurring on or after the date of the enactment of this Act.

SEC. 403. PROCEDURES FOR DISQUALIFICATION OF PERSONS COMMITTING CAPITAL CRIMES FOR INTERMENT OR MEMORIALIZATION IN NATIONAL CEMETERIES.

Section 2411(a)(2) is amended—

(1) by striking “The prohibition” and inserting “In the case of a person described in subsection (b)(1) or (b)(2), the prohibition”; and

(2) by striking “or finding under subsection (b)” and inserting “referred to in subsection (b)(1) or (b)(2), as the case may be,”.

TITLE V—JUDICIAL, PROCEDURAL, AND ADMINISTRATIVE MATTERS

SEC. 501. STANDARD FOR REVERSAL BY COURT OF APPEALS FOR VETERANS CLAIMS OF ERRONEOUS FINDING OF FACT BY BOARD OF VETERANS' APPEALS.

(a) **STANDARD FOR REVERSAL.**—Paragraph (4) of subsection (a) of section 7261 is amended by striking “if the finding is clearly erroneous” and inserting “if the finding is adverse to the claimant and the Court determines that the finding is unsupported by substantial evidence of record, taking into account the Secretary's application of section 5107(b) of this title”.

(b) **SCOPE OF AUTHORITY.**—That subsection is further amended—

(1) in the matter preceding paragraph (1), by striking “this chapter” and inserting “section 7252(a) of this title”; and

(2) in paragraph (4), as amended by subsection (a) of this section, by inserting “or reverse” after “set aside”.

(c) **MATTERS RELATING TO FINDINGS OF MATERIAL FACT.**—That section is further amended by adding at the end the following new subsection:

“(e)(1) In making a determination on a finding of material fact under subsection (a)(4), the Court shall review the record of proceedings before the Secretary and the Board of Veterans' Appeals pursuant to section 7252(b) of this title.

“(2) A determination on a finding of material fact under subsection (a)(4) shall specify the evidence or material on which the Court relied in making such determination.”.

(d) **APPLICABILITY.**—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsections (a) and (b)(2) shall apply with respect to any ap-

peal filed with the United States Court of Appeals for Veterans Claims—

(A) on or after the date of the enactment of this Act; or

(B) before the date of the enactment of this Act, but in which a final decision has not been made under section 7291 of title 38, United States Code, as of that date.

SEC. 502. REVIEW BY COURT OF APPEALS FOR THE FEDERAL CIRCUIT OF DECISIONS OF LAW OF COURT OF APPEALS FOR VETERANS CLAIMS.

(a) **REVIEW.**—(1) Subsection (a) of section 7292 is amended in the first sentence by inserting after “the validity of” the following: “a decision of the Court on a rule of law or of”.

(2) Subsection (c) of that section is amended—

(A) in the first sentence, by inserting after “the validity of” the following: “a decision of the Court of Appeals for Veterans Claims on a rule of law or of”; and

(B) in the second sentence, by striking “such court” and inserting “the Court of Appeals for the Federal Circuit”.

(b) **APPLICABILITY.**—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to any appeal—

(1) filed with the United States Court of Appeals for the Federal Circuit on or after the date of the enactment of this Act; or

(2) pending with the United States Court of Appeals for the Federal Circuit as of the date of the enactment of this Act in which a decision has not been rendered as of that date.

SEC. 503. AUTHORITY OF COURT OF APPEALS FOR VETERANS CLAIMS TO AWARD FEES UNDER EQUAL ACCESS TO JUSTICE ACT FOR NON-ATTORNEY PRACTITIONERS.

The authority of the United States Court of Appeals for Veterans Claims to award reasonable fees and expenses of attorneys under section 2412(d) of title 28, United States Code, shall include authority to award fees and expenses, in an amount determined appropriate by the United States Court of Appeals for Veterans Claims, of individuals admitted to practice before the Court as non-attorney practitioners under subsection (b) or (c) of Rule 46 of the Rules of Practice and Procedure of the United States Court of Appeals for Veterans Claims.

SEC. 504. RETROACTIVE APPLICABILITY OF MODIFICATIONS OF AUTHORITY AND REQUIREMENTS TO ASSIST CLAIMANTS.

(a) **RETROACTIVE APPLICABILITY.**—Except as specifically provided otherwise, the provisions of sections 5102, 5103, 5103A, and 5126 of title 38, United States Code, as amended by section 3 of the Veterans Claims Assistance Act of 2000 (Public Law 106-475; 114 Stat. 2096), apply to any claim—

(1) filed on or after November 9, 2000; or

(2) filed before November 9, 2000, and not final as of that date.

(b) **READJUDICATION OF CERTAIN CLAIMS.**—If the United States Court of Appeals for Veterans Claims, the United States Court of Appeals for the Federal Circuit, or the Supreme Court renders a decision during the period beginning on April 24, 2002, and ending on the date of the enactment of this Act holding that section 3(a) of the Veterans Claims Assistance Act of 2000 is not applicable to a case covered by the decision because such section 3(a) was not intended to be given retroactive effect, the Secretary of Veterans Affairs shall, upon request of the claimant or on the Secretary's own motion, order the claim readjudicated under chapter 51 of such title, as amended by the Veterans Claims Assistance Act of 2000, as if Board of Veterans' Appeals most recent denial of the claim concerned had not occurred.

Amend the title to read as follows: “A bill to amend title 38, United States Code, to modify and improve authorities relating to compensation and pension benefits, education benefits, housing benefits, and other

benefits for veterans, to improve the administration of benefits for veterans, and for other purposes.”.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Thursday, September 26, 2002 at 9:30 a.m. in SD-406 to conduct a business meeting to consider the following items:

Legislation:

S. 606, the Ombudsman Reauthorization Act of 2001

S. 2065, the Southern Ute and Colorado Intergovernmental Agreement Implementation Act of 2002

S. 2715, a bill to provide an additional extension of the period of availability of unemployment assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in the case of victims of the terrorist attacks of September 11, 2001

S. 2730, Restore the Apalachicola River Ecosystem Act of 2002

S. 2847, Crane Conservation Act of 2002

S. 2897, the Marine Turtle Conservation Act of 2002

S. 2928, the Daniel Patrick Moynihan Lake Champlain Basin Program Act of 2002

S. 2975, a bill to authorize the project for hurricane and storm damage reduction, Morganza, Louisiana, to the Gulf of Mexico, Mississippi River and Tributaries

S. 2978, a bill to modify the project for flood control, Little Calumet River, IN

S. 2983, a bill to authorize a project for navigation, Chickamauga Lock and Dam, TN

S. 2984, a bill to authorize a project for ecosystem restoration at Smith Island, MD

S. 2985, the Anthrax Cleanup Assistance Act of 2002

S. 2999, a bill to authorize the project for environmental restoration, Pine Flat Dam, Fresno County, California.

H.R. 1070, the Great Lakes Legacy Act of 2002

H.R. 2595, a bill to direct the Secretary of the Army to convey a parcel of land to Chat-ham County, GA

H.R. 3908, the North American Wetlands Conservation Reauthorization Act of 2002

H.R. 4044, a bill to authorize the Secretary of the Interior to provide assistance to the State of Maryland for implementation of a program to eradicate nutria and restore marshland damaged by nutria

H.R. 4727, the Dam Safety and Security Act of 2002

H.R. 4807, a bill to authorize the Secretary of the Interior to acquire the property in Cecil County, Maryland, known as Garrett Island for inclusion in the Blackwater National Wildlife Refuge.

Courthouse Naming:

S. 2332, a bill to designate the Federal building and United States courthouse to be constructed at 10 East Commerce Street in Youngstown, Ohio, as the “Nathaniel R. Jones Federal Building And United States Courthouse”.

Resolutions:

Committee Resolution for U.S. Army Corp of Engineers' study in the Chesapeake Bay Watershed, MD

Committee Resolution for the U.S. Army Corp of Engineers' study in Fall River Harbor, MA

Committee Resolution for the U.S. Army Corp of Engineers' study in Elliott Bay, WA